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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INSOLVENCY PETITION NO.35 OF 2006

Re.: .
Nandkishor Laxminarayan .
Kagliwal & Ors. ...Debtors

Ex-parte: .
Mandvi Co-operative Bank Ltd. ...Petitioning Creditor

Dr.D.R. Talankar, Advocate, for the Petitioning Creditor.

Mr.Kishore Jain, Advocate, i/b. Mr.G.R. Mehta, for the Debtors.

CORAM : ABHAY S. OKA, J.
DATED : 16TH OCTOBER, 2007.

P.C.:

1. Heard learned Counsel appearing for the parties. The insolvency notice which is the subject matter of this petition has been taken out on the basis of an award made by a Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

2. In view of the decision of this Court dated 4th September, 2007 in Notice of Motion No.40 of 2007 (Re.Kishore K. Mehta) and other connected cases, an insolvency notice under Section 9(2) of the Presidency Towns Insolvency Act, 1909 could not have been taken

out on the basis of the award made under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

3. In view of this legal position, no consequences will flow even if no steps are taken by the debtors on the basis of the said insolvency notice within the time of 35 days stipulated by law. Therefore, it cannot be said that an act of insolvency has been committed. In view of this position, the petition is not maintainable and the same is dismissed on that ground.

[ABHAY S. OKA, J.]